THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.3091 OF 2006

Dated: 17-02-2006

Between

Ms. S. Iswarya, W/o. Srinivas

Flat No.204, Prashanthi Apartments

Cooperative Colony, Cuddapah

Town and District, Cuddapah

and another.

...PETITIONERS

AND

Municipal Corporation of Cuddapah,

Cuddapah District, represented by

its Commissioner and others.

...RESPONDENTS

ORDER:

This writ petition is filed seeking a Writ of Mandamus to declare the action of the respondents in seeking to encroach and demolish a part of the property of the petitioners (Honda Show Room) situated in Sy.No.98/2 and 98/3 admeasuring 41 cents in Cuddapah Town as illegal and arbitrary.

Learned counsel for the petitioners submits that the petitioners are the owners of the aforementioned premises in Cuddapah town and municipality. The Cuddapah municipality

has been recently upgraded as Municipal Corporation. In view of the traffic congestion and to have free flow of traffic the Cuddapah Municipal Corporation has decided to widen the roads, for which they have identified certain roads in the entire Cuddapah municipal corporation. Learned counsel for the petitioners further submits that the petitioners are not at all against the road-widening programme of the respondents and they have no objection for the said programme if their lands are acquired and
if proper compensation is paid.

The only grievance of the petitioners is that the respondents without issuing any notices, without paying any compensation for their structures or the lands and without following due process of law,
are threatening to demolish the existing structures of the petitioners for the purpose of road-widening.

The learned counsel for the petitioners further submits that the action of respondents without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well as Section 146 or 147 of the Municipal Corporation Act (for short 'the Act').

This Court disposed of number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case,
this writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the properties of the petitioners and not to dispossess them without following due process of law under Section 146 or 147 of the Act or private negotiations or initiating the proceedings under the Land Acquisition Act, 1894. No costs.

_____

V. ESWARAIAH, J

February 17, 2006

DSK